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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/598,471

08/31/2006

Yuichiro Shindo

OGOSH59USA

5838

270 7590 01/05/2009

HOWSON AND HOWSON
SUITE 210
501 OFFICE CENTER DRIVE
FT WASHINGTON, PA 19034

EXAMINER

VELASQUEZ, VANESSA T

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

01/05/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/598,471	Applicant(s) SHINDO ET AL.	
	Examiner Vanessa Velasquez	Art Unit 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 8-26 is/are pending in the application.
- 4a) Of the above claim(s) 23-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 8-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>Aug. 31, 2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Restriction

Applicant's election without traverse of Group I, claims 1 and 8-22, in the reply filed on September 25, 2008 is acknowledged. Claims 23-26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Status of Claims

Claims 1 and 8-22 are presented for examination on the merits.

Priority

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy of Application No. 2004-056022, filed in Japan, has been received.

Information Disclosure Statement

One (1) information disclosure statement (IDS) was received on August 31, 2006. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 8-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Shindo et al. (US 6,036,741).

Regarding claims 1, 8, 15, and 16, Shindo et al. disclose a purified Ru powder with a Na and K content of 1.5 ppm (total) and an Al content of 5 ppm (Table 1, Comp.

1). These values originate from a specific example in the prior art and, therefore, anticipate the claimed range (MPEP § 2131.03).

Still regarding claims 15 and 16, the Ru powder may be formed into a sputtering target (col. 8, lines 1-2).

Regarding claims 9 and 17, transition metal elements Fe, Ni, Cr, Co, Cu, Mo, Pd, Rh, Os, Ir, and Pt total 10.1 ppm (Table 1, Comp. 1). Radioactive elements U and Th total 2.5 ppb (Table 1, Comp. 1).

Regarding claims 10, 13, 18, and 21, the purity of the Ru material is 99.997 (Table 1, Comp. 1).

Regarding claims 11, 14, 19, and 22, oxygen is 100 ppm (Table 1, Comp. 1).

Regarding claims 12 and 20, elements Fe, Ni, Cr, Co, and Cu total 4.1 ppm (Table 1, Comp. 1). Elements U and Th total 2.5 ppb (Table 1, Comp. 1).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vanessa Velasquez whose telephone number is 571-270-3587. The examiner can normally be reached on Monday-Friday 9:00 AM-6:00 PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King, can be reached at 571-272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Roy King/
Supervisory Patent Examiner, Art
Unit 1793

/Vanessa Velasquez/
Examiner, Art Unit 1793